

Amendments to Senate Bill No. 329  
3rd Reading Copy

Requested by Representative Kris Hansen

For the House Education Committee

Prepared by Dan Whyte  
April 1, 2011 (7:59am)

1. Title, page 1, line 5.

Following: "LAWS;"

Insert: "PROVIDING SCHOOL DISTRICTS GUIDANCE FOR ESTIMATING  
ANTICIPATED OIL AND NATURAL GAS PRODUCTION TAX REVENUE AND  
DIRECTING THAT THE REVENUE MAY NOT BE CAPPED BY THE STATE;"

2. Title, page 1, line 18.

Following: "~~GRANTS~~;"

Insert: "REQUIRING THAT AFTER RECEIVING CERTAIN LEVELS OF OIL AND  
NATURAL GAS PRODUCTION TAX REVENUE, DISTRICTS MUST STOP  
RECEIVING DIRECT STATE AID AND RETURN PORTIONS OF SCHOOL  
FUNDING AID TO THE STATE; REQUIRING THAT OIL AND NATURAL GAS  
PRODUCTION TAX COLLECTIONS IN EXCESS OF THE AMOUNT ESTIMATED  
BY THE LEGISLATURE BE ALLOCATED TO CERTAIN FUNDS; CREATING  
AN OIL AND NATURAL GAS TRUST FUND TO RECEIVE A PORTION OF  
EXCESS OIL AND NATURAL GAS PRODUCTION TAX COLLECTIONS AND  
DISTRIBUTE THE REVENUE TO ELIGIBLE SCHOOL DISTRICTS;"

3. Title, page 1.

Following: line 20

Insert: "15-36-302, 15-36-332, 20-1-101,"

Following: "~~20-9-630~~,"

Insert: "20-9-543,"

4. Page 1, line 26.

Insert: "Section 1. Section 15-36-302, MCA, is amended to read:

"15-36-302. Legislative findings and declaration of  
purpose. (1) (a) The legislature finds that the extraction taxes  
imposed on the production of oil and natural gas have been  
exceedingly complex and confusing. Oil and natural gas producers  
have been required to file several tax forms and to pay taxes at  
different times on the same production.

(b) The legislature further finds that it is in the best  
interest of the state and in the best interest of oil and gas  
producers to simplify the taxation of oil and natural gas  
production.

(2) The legislature declares that the amount of oil and  
natural gas production taxes allocated to the counties and  
distributed to the school districts in this part is revenue that  
belongs to and must remain with those counties and school  
districts.

~~(2)~~ (3) The legislature further declares that the purposes  
of this part are:

(a) to replace all net proceeds taxes, severance taxes,

privilege and license taxes, and other extraction taxes on oil and natural gas production with a single production tax based on the type of well and type of production;

(b) to ensure that the distribution of tax revenue to the state, counties, and school districts from the new production taxes is consistent with the distribution of tax revenue from the former extraction taxes;

(c) to simplify the procedures for compliance with and the administration of the taxation of oil and natural gas production;

(d) to provide an incentive for oil and natural gas producers to pay 1995 local government severance taxes on an accelerated basis; and

(e) to provide discretionary authority to counties and school districts for the use of the accelerated payments of the local government severance tax."

{Internal References to 15-36-302: None.x}"

Insert: "Section 2. Section 15-36-332, MCA, is amended to read:

"15-36-332. Distribution of taxes to taxing units -- appropriation. (1) (a) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (8) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School
Districts				
Big Horn	14.81%	10.36%	2.99%	
26.99%				
Blaine	5.86%	2.31%	2.71%	
24.73%				
Carbon	3.6%	6.62%	1.31%	
49.18%				
Chouteau	8.1%	4.32%	3.11%	
23.79%				
Custer	6.9%	3.4%	1.19%	
31.25%				
Daniels	0	7.77%	3.92%	
48.48%				
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	
42.58%				
Fergus	7.88%	4.84%	2.08%	
53.25%				
Garfield	4.04%	3.13%	5.29%	
26.19%				

Glacier	11.2%	4.87%	3.01%	
46.11%				
Golden Valley	0	11.52%	2.77%	
54.65%				
Hill	6.7%	4.07%	1.59%	
49.87%				
Liberty	4.9%	4.56%	1.15%	
35.22%				
McCone	4.18%	3.19%	2.58%	
43.21%				
Musselshell	5.98%	4.07%	3.53%	
32.17%				
Petroleum	0	11.92%	4.59%	
55.48%				
Phillips	0.43%	6.6%	1.08%	
41.29%				
Pondera	6.96%	5.06%	1.94%	
45.17%				
Powder River	3.96%	2.97%	4.57%	
22.25%				
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	
43.77%				
Roosevelt	9.93%	7.37%	2.74%	
40.94%				
Rosebud	3.87%	2.24%	1.05%	
72.97%				
Sheridan	0	3.39%	2.22%	
47.63%				
Stillwater	6.87%	4.86%	1.63%	
41.16%				
Sweet Grass	6.12%	6.5%	2.4%	
37.22%				
Teton	6.88%	8.19%	3.8%	
29.43%				
Toole	2.78%	4.78%	1.3%	
43.56%				
Valley	2.26%	12.61%	4.63%	
41.11%				
Wibaux	0	4.1%	0.77%	
31.46%				
Yellowstone	7.98%	4.56%	1.07%	
52.77%				
All other counties	3.81%	7.84%	1.81%	
41.04%				

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the

county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4) (b) through (4) (d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2) (a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4) (d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2) (a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4) (c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4) (c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4) (c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4) (b) through (4) (d) must be distributed to each school district in the relative proportion of the mill levy for each fund to be used for any educational purpose considered necessary by the trustees.

(b) If a distribution under subsection (5) (a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas

production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

(9) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund and are considered local revenue that may not be capped by the state."

{Internal References to 15-36-332:

7-1-2111 x 15-36-304 x 15-36-315 x 15-36-315 x  
15-36-315 x 15-36-315 x 15-36-331 x 15-36-331 x  
17-7-502 x 90-6-1001 x}"

Insert: "Section 3. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation standards" means the body of administrative rules governing standards such as:

- (a) school leadership;
- (b) educational opportunity;
- (c) academic requirements;
- (d) program area standards;
- (e) content and performance standards;
- (f) school facilities and records;
- (g) student assessment; and
- (h) general provisions.

(2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is offered or for which a pupil is enrolled.

(3) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(4) "Anticipated oil and natural gas production taxes"

means the average of the preceding 20 years of actual oil and natural gas production tax revenue received as reported in the school district board of trustees' financial report provided for in 20-3-209(3) and 20-9-213(6).

~~(4)~~(5) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

~~(5)~~(6) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

~~(6)~~(7) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

~~(7)~~(8) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

~~(8)~~(9) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

~~(9)~~(10) "County superintendent" means the county government official who is the school officer of the county.

~~(10)~~(11) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

~~(11)~~(12) (a) "Educational program" means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.

(b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

~~(12)~~(13) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

~~(13)~~(14) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

(b) The term does not include lunch time and periods of unstructured recess.

~~(14)~~(15) "Offsite instructional setting" means an

instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.

~~(15)~~(16) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established by the board of public education.

~~(19)~~(20) "Regents" means the board of regents of higher education.

~~(20)~~(21) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

~~(21)~~(22) "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

~~(22)~~(23) "State university" means Montana state university-Bozeman.

~~(23)~~(24) "Student with limited English proficiency" means any student:

(a) (i) who was not born in the United States or whose native language is a language other than English;

(ii) who is an American Indian and who comes from an environment in which a language other than English has had a significant impact on the individual's level of English proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

(b) whose difficulties in speaking, reading, writing, or

understanding the English language may be sufficient to deny the student:

(i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

~~(24)~~ (25) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(25)~~ (26) "System" means the Montana university system.

~~(26)~~ (27) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(27)~~ (28) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(28)~~ (29) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(29)~~ (30) "Trustees" means the governing board of a district.

~~(30)~~ (31) "University" means the university of Montana-Missoula.

~~(31)~~ (32) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

{Internal References to 20-1-101:

19-20-302 x 20-9-328 x}"

Renumber: subsequent sections

5. Page 11, line 15.

Insert: "Section 11. Section 20-9-543, MCA, is amended to read:

"20-9-543. School flexibility fund -- uses. (1) (a) The trustees of a district shall establish a school flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

(i) major deferred maintenance;

(ii) critical infrastructure in schools;

~~(i)~~ (iii) technological equipment enhancements and expansions considered by the trustees to support enhanced educational programs in the classroom;

~~(ii)~~ (iv) facility expansion and remodeling considered by the trustees to support the delivery of educational programs or the removal and replacement of obsolete facilities;

~~(iii)~~ (v) supplies and materials considered by the trustees to support the delivery of enhanced educational programs;



~~(iv)~~(vi) student assessment and evaluation;  
~~(v)~~(vii) the development of curriculum materials;  
~~(vi)~~(viii) training for classroom staff considered by the trustees to support the delivery of enhanced educational programs;

~~(vii)~~(ix) purchase, lease, or rental of real property that must be used to provide free or reduced price housing for classroom teachers;

~~(viii)~~(x) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom teachers and other certified staff, subject to collective bargaining when applicable; or

~~(ix)~~(xi) increases in energy costs caused by an increase in energy rates from the rates paid by the district in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other resources of the district; or

(xii) improving energy efficiency in schools.

(b) If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.

(2) The trustees of a district shall fund the school flexibility fund with the money allocated under 20-9-542 and with the money raised by the levy under 20-9-544.

(3) The financial administration of the school flexibility fund must be in accordance with the financial administration provisions of this title for a budgeted fund."

{Internal References to 20-9-543:

20-9-544 x 20-9-544 x}"

Insert: "NEW SECTION. Section 12. Receipt of oil and gas production tax revenue -- eligibility for direct state aid. A school district board of trustees shall include in the financial report that it prepares after the school fiscal year in accordance with 20-3-209(3) and 20-9-213(6) a calculation to implement the following:

(1) After a school district receives an amount of oil and natural gas production tax revenue equal to the higher of either 100% of the maximum of its over-BASE budget or 100% of its adopted general fund budget, the school district is no longer eligible to receive direct state aid. The school district shall return to the state general fund any direct state aid that it received during the school fiscal year after the amount specified in this subsection was reached.

(2) A school district shall refund to the state general fund \$1 for every \$5 of oil and natural gas production tax revenue that the district received after ceasing to be eligible for direct state aid under subsection (1). The district shall refund in the following order the money it received from the following sources:

- (a) guaranteed tax base aid until repaid in full;
- (b) direct state aid until repaid in full;
- (c) block grant funds until repaid in full.

(3) After a school district has repaid in full the amounts provided for in subsection (2), any further oil and natural gas production tax revenue received by the school district must remain with the school district. "

Insert: "NEW SECTION. Section 13. Distribution of oil and gas production tax revenue received in excess of revenue estimate.

(1) If at the end of a fiscal year the state's oil and natural gas production tax revenue collections exceed the amount estimated by the legislature pursuant to 5-5-227, then the excess must be allocated as follows:

- (a) 25% to the state general fund;
- (b) 37.5% to the guarantee account provided for in 20-9-622; and
- (c) 37.5% to the oil and natural gas trust fund established in [section 14].

(2) The excess oil and natural gas production tax revenue does not include late tax, penalties, or interest from the prior year.

(3) The revenue estimate must include adjustments to the revenue, if any, resulting from laws enacted in the current year.

(4) The department of administration shall certify the excess revenue to the secretary of state and provide copies of the certification to the department of revenue and the code commissioner."

Insert: "NEW SECTION. Section 14. Oil and natural gas trust fund -- purposes -- eligibility for disbursements. (1) There is an oil and natural gas trust fund in the state special revenue fund provided for in 17-2-102. A percentage of certified excess oil and natural gas production taxes must be deposited into the trust fund as provided in [section 13].

(2) The purpose of the trust fund is to provide money to the school flexibility fund of an eligible school district. A school district is eligible for disbursements from the oil and natural gas trust fund if it:

- (a) is in an oil and natural gas producing county; and
- (b) has not received an amount of oil and natural gas production taxes equal to 100% of the maximum of its over-BASE budget or of its adopted general fund budget.

(3) Money in the oil and natural gas trust fund must be distributed on an equitable basis to the school flexibility fund of each school district that is eligible under subsection (2).

(4) Distributions from the oil and natural gas trust fund may not be offset by reductions in other state school funding."

Renumber: subsequent sections

6. Page 12, line 26.

Insert: "NEW SECTION. Section 16. Codification instruction. [Sections 12 through 14] are intended to be codified as an integral part of Title 15, chapter 36, part 3, and the provisions of Title 15, chapter 36, part 3, apply to [sections 12 through 14]."